

1 **John Gimbel**
2 **225 Brevus St.**
3 **Crescent City CA**
4 **95531**
5 **707.464.5908**
6 **Plaintiff, in pro se**

FILED
2007 NOV 15 PM 12:05
CLERK OF DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

7 **UNITED STATES DISTRICT COURT**
8 **NORTHERN DISTRICT OF CALIFORNIA**

9 **JOHN GIMBEL**
10 **Plaintiff,**

11 **vs.**

CASE NO. : C070113 SBA
MOTION FOR DISQUALIFICATION
OF JUDGE (SAUNDRA B.
ARMSTRONG)

12 **STATE OF CALIFORNIA, DEL NORTE**
13 **COUNTY SHERIFF'S DEPARTMENT,**
14 **JERRY HARWOOD, BILL STEVEN, GENE**
15 **McMANUS, MELANIE BARRY, DANA RENO,**
16 **ROBERT BARBER, ED FLESHMAN,**
17 **CRESCENT CITY**
18 **POLICE DEPARTMENT,**
19 **DOUGLASS PLACK, GREG JOHNSON, JAMES**
20 **HOLT, CALEB CHADWICK, THOMAS**
21 **BURKE, DEL NORTE DISTRICT ATTORNEY,**
22 **KEITH MORRIS, AC FIELD, MICHAEL RIESE,**
23 **DARREN McELFRESH, AND FRITZ**
24 **LUDERMAN**

25 **Defendants**

26 -----
27 **STATEMENT OF THE FACTS**

28 **Attached to this as exhibit A is a Complaint for Judicial Disability (or**
29 **Misconduct) which has been filed regarding the above referenced judge. It should be**
30 **very clear why she should disqualify herself.**

31 **JURISDICTION**

32 **It is true that, because of time deadlines, the above case has been coerced to**
33 **appeal. However, plaintiff (also, appellant) argues and believes that, because he is**
34 **the exact creator, author and decider as to the existence of (any) appeal, he has the**

1 right to bestow "power of attorney," or suggest or even "assign jurisdiction" in the
 2 regard that he may, with a potential real result, ask the district court to get their
 3 heads together with the Ninth Circuit court of appeal and indicate to the the appeal
 4 court (if the district court finally sees it as I--the correctness of recusal by S.B.A.)
 5 that, yes, the judge should have recused herself, and ask the appeal court to stay any
 6 appeal proceedings while the original case in district court is heard by any other
 7 judge. (The appeal may or may not be resumed depending on the reassigned judge
 in the district court.) Never hurts to ask; and I'm asking the Oakland District Court
 to do exactly this, and upon review of this motion.

8
 9 With my signature below I confer now to the Oakland federal U.S. District
 10 Court the power of attorney in my case, appeal or otherwise, to ask, and as not
 11 unreasonable, the foregoing of the Ninth Appeal Court--to stay appeal proceedings--
 12 until the district court has reassigned another judge and the plaintiff's amended
 13 complaint is considered by a reassigned judge with the force and effect of an
 14 original proceeding at the district court level.

15
 16 Dated _____ in pro se

17 225 Brevus St.
 18 Crescent City, CA 95531
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EXHIBIT A

1 **John Gimbel**
2 **225 Brevus St.**
3 **Crescent City CA**
4 **95531**
5 **707.464.5908**
6 **Plaintiff, in pro se**

7 **JUDICIAL COUNCIL OF THE NINTH CIRCUIT**
8 **COMPLAINT OF JUDICIAL MISCONDUCT OR DISABILITY**

9 **JOHN GIMBEL**
10 **Complainant's name**

CASE NO. :
COMPLAINT OF JUDICIAL
CONDUCT AND DISABILITY
IN C07 0113 SBA

11 **SAUNDRA BROWN ARMSTRONG**
12 **Name of judge being complained**
13 **about**
14 -----/

15 **Judge's court: Oakland.**

16 **Behavior of judge in C07 0113 (SBA) (Saundra Brown Armstrong).**

17 **Complainant is the in pro se plaintiff in the indicated case number.**

18 **Complainant has not filed a lawsuit against the judge.**

19 **There have been no appeals in the case.**

20 **Present status of suit: apparent order on motions and amended motions to**
21 **dismiss complaint had been granted by the judge in question, Saundra Armstrong**
22 **Brown.**

23 **STATEMENT OF FACTS**

24 **Very simple. Plaintiff filed initially in S.F. court under Martin J. Jenkins**
25 **(black judge). Defendants' motions were granted with leave for plaintiff to amend.**
26 **In plaintiff's amended complaint, he did use some expressly racist-sounding**
27 **language. The judge did recuse himself, obviously because he's black. Plaintiff did**
28

1 come back later in his Combined Oppositions to Defendants' Motions to Dismiss
2 Amended Complaint with a personal letter consoling Mr. Jenkins in every way he
3 could that he was no racist, but was just trying to generate a wake-up call, attention
4 grabber, to being 100% certain that Mr. Jenkins was a First Amendment closet case,
5 and/or that he had, obviously, done extremely few, or none, First Amendment cases.

6 The case was reassigned to Oakland under Sandra Brown Armstrong.
7 Because she is also black, she should clearly also recuse herself. She has even issued
8 a "snipey headed order," with her ostensible pun in it, "with prejudice" against Mr.
9 Gimbel, plaintiff, the phrase she includes in her order granting motions to dismiss
10 amended complaint.

11 For relief in this, I simply ask she recuse herself, and let the motions to
12 dismiss amended complaint in C07 0113 (MJJ-SBA) simply be assigned a judge not
13 likely to wreak vengeance, and miscarriage to all requests for relief in the indicated
14 action, upon the plaintiff for some language he used. I'll allow it to be called
15 "disability." She probably can't help herself.

16 If you read my complaint and exhibits, I starve until this action is over.
17 Drawing it out that I do (starve) apparently doesn't bother anybody around here.

18 Let's get on with a recuse and have the motions she viewed reassigned to
19 another judge. I will be forward-looking in this matter, and not punitive-minded per
20 Rule 1(a). She probably couldn't help herself, but we need to do this with another
21 judge--no questions please.

22 I thank you.

23 I declare under penalty of perjury that I have read rules 1 and 2 of the
24 Rules of the Judicial Council of the Ninth Circuit Governing Complaints of Judicial
25 Misconduct or Disability, and the statements made in this complaint are true and
26 correct to the best of my knowledge.

27 Dated: _____

28 JOHN GIMBEL, complainant, in pro se

**ROOF OF SERVICE BY MAIL, PERSONAL DELIVERY,
OVERNIGHT MAIL, OR FACSIMILE TRANSMISSION**

I am a citizen of the United States and a resident of Del Norte County; I am over the age of eighteen (18) years; my address is 1533 Oregon St., Crescent City, CA 95531.

On November 10, 2007 I served the documents within, described as **MOTION FOR DISQUALIFICATION OF JUDGE (SAUNDRA B. ARMSTRONG)** to the interested parties in said action:

_____ By overnight FedEx.

 X By following the ordinary business practice, placing on that date at my place of business, a true copy thereof enclosed in a sealed envelope(s) with postage thereon fully prepaid, for collection and mailing with the United States Postal Service at Crescent City, California, where it would be deposited with the United States Postal Service that same day in the ordinary course of business addressed as follows:

Attny John Vrieze, William Mitchell
(for Del Norte sheriff dept. and dist. att.)
814 Seventh St.
Eureka, CA
95502

Calif. Att. Gen. (Troy Overton, John Devine)
455 Golden Gate Ave. Suite 11000
San Francisco, CA
94102-7004

Attny William Ayres, Randall Harr
((for Crescent City police dept. (& agents of city))
1415 Court St.
Redding, CA
96001

((Ronald V. Dellums Federal bldg.
Suite 400 South
1301 Clay Street
Oakland, CA 94612-5217))

_____ By personally delivering a copy of said document(s) on the party(ies) named below at the following address(es):

_____ By following the ordinary business practice, placing on that date at my place of business, the above documents for deposit that same day in a box or other facility regularly maintained by Federal Express, in an envelope or package designated by Federal Express, with delivery fees paid or provided for as follows:

_____ By transmitting by facsimile machine, from telephone number 707 464 5908, to the party(ies) named below at the facsimile machine telephone number listed below. The facsimile machine I used complied with California Rules of Court, rule 2003, and no error was reported by the machine. Pursuant to California Rules of Court, rule 2006(d), I caused the machine to print a transmission record of the transmission, a copy of which is attached to this declaration.

Name: _____
Name: _____

Facsimile No: _____
Facsimile No: _____

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this day of November 10, 2007 at Crescent City, California.


Chris Ohmer